

REMARKS

These remarks and the accompanying amendments are responsive to the Office Action mailed March 10, 2005 (hereinafter referred to as "the Office Action"). Claims 1-48 were pending at the time of the last examination. By this amendment, Claims 7, 26, 32, 47 and 48 are amended, and Claims 1, 6 and 27 are canceled. Reconsideration and allowance for the above-identified application are now respectfully requested in light of these remarks and the accompanying amendments.

Section 2 of the Office Action rejects Claims 1-15, 18-40, and 43-48 under 35 U.S.C. § 102(a) as being anticipated by Christopher (European Patent Application No. EP 0975184A1) (herein after referred to as "Christopher"). However, Section 3 of the office action states that claims 16, 17, 41 and 42 are allowed. This rejection is rendered moot with respect to the cancelled claims, but remains with respect to still pending Claims 2-5, 7-15, 18-26, 28-40 and 43-48. The various differences between the now pending and rejected claims, including the newly amended claims, and the cited art of record will now be explained.

Claims 2-3 and 28-29

Claims 2-3 and 28-29 assign a channel for a service area based on the TDD method or the FDD method to a request for a channel assignment based in part on "a handover frequency of the mobile station related to the request."

In contrast, Christopher discloses detecting a velocity of a cellular telephone and assigning one of a TDD method and a FDD method based on the detected velocity. The Office Action implies that Claims 2-3 and 28-29 lack novelty in view of the Christopher passages

spanning column 8, lines 14-26 and column 9, lines 34-41. However, these passages do not disclose using a handover frequency when making a channel assignment.

In addition, when based on the velocity of the cellular telephone instead of the handover frequency, the cellular telephone has to include a function for measuring the velocity, and therefore the configuration of the cellular telephone becomes complex. Accordingly, Claims 2-3 and 28-29 have novelty and non-obviousness over Christopher for at least the reason that Christopher does not disclose each and every element of Claims 2-3 and 28-29.

Claims 4-5 and 30-31

Claims 4-5 and 30-31 assign a channel for a service area based on the TDD method or the FDD method to a request for a channel assignment based in part on "the maximum reception power value of a forward common channel of the mobile station related to said request."

In contrast, Christopher discloses assigning one of a TDD method and a FDD method based on the location (position) of the cellular telephone. The Office Action implies that Claims 4-5 and 30-31 lack novelty in view the Christopher passages spanning column 9, lines 15-23 and column 10, lines 34-41. However, these passages do not disclose using the maximum reception power value of a forward common channel of the mobile station when making a channel assignment.

Further, "location" in Christopher means whether the cellular telephone is in a macrocell only, in a macrocell and a microcell, or in a macrocell, microcell and picocell (see paragraph [0053]). "Location" has nothing to do with which position the cellular telephone locates in a cell (whether the cellular telephone locates at the end of the cell or not), and therefore, has nothing to do with a reception power value. Therefore, the present invention of claims 4-5 and 30-31 has

novelty and non-obviousness over Christopher for at least the reason that Christopher does not disclose each and every element of Claims 4-5 and 30-31.

Claims 7 and 32

Newly amended Claim 7 and original Claim 32 assign a channel for a service area based on the TDD method or the FDD method to a request for a channel assignment based in part on a "type of communication related to the request," for example, voice communication or data communication.

The Office Action states this feature is implicitly taught by Christopher (page 5, lines 12-13 and 15-16 of the Office Action), because, for example, FDD systems are better suited to handle low to moderate data rates such as voice data rates. However, Christopher only discloses that one of the TDD method and the FDD method is assigned based on the bit rate necessary for the present communication (see paragraph [0048]). Accordingly, Christopher does not implicitly teach that FDD systems are better suited to handle low to moderate data rates such as voice data rates. Therefore, Claims 7 and 32 have novelty and non-obviousness over Christopher for at least the reason that Christopher does not disclose each and every element of Claims 7 and 32.

Claims 8-25 and 33-46

Claims 8-25 and 33-46 recite detecting a mobile station to which a channel for a service area based on one method (a TDD method or a FDD method) is currently assigned and a channel for a service area based on the other method can be assigned.

In sharp contrast, Christopher discloses that when the base station 104 receives the request for service from the cellular telephone 108 (step 802 of Figure 8), it is determined

whether both the FDD and the TDD schemes are available (step 804). If only one of the TDD or the FDD schemes is available, then the available scheme is assigned to the cellular telephone 108 (step 808). If both the TDD and the FDD schemes are available, a preferred one of the schemes is determined (step 810 and Figure 9), and the preferred scheme is allocated to the cellular telephone 108 (step 812).

Thus, the method disclosed by Christopher is a method for assigning one of the FDD and the TDD schemes to the cellular telephone 108 when neither the FDD nor the TDD scheme is currently assigned. In other words, Christopher does not disclose a feature of Claims 8-25 and 33-46, i.e., detecting a mobile station to which a channel for a service area based on one method (the TDD method or the FDD method) is currently assigned and a channel for a service area based on the other method can be assigned. Thus Christopher does not anticipate Claims 8-25 and 33-46.

As an example, the Office Action rejects claim 8 by referring to column 8, lines 51-52 of Christopher and stating that step 802 of Figure 8 detects that a channel for a service area based on the TDD method is currently assigned by analyzing a system database. However, the request for channel assignment in step 802 is a request from a mobile station which has not yet been assigned a channel. Therefore, it cannot be said that step 802 detects that a channel for a service area based on the TDD method is currently assigned. Accordingly, Claims 8-25 and 33-46 have novelty and non-obviousness over Christopher for at least the reason that Christopher does not disclose each and every element of Claims 8-25 and 33-46.

In addition, Claim 19 depends on Claim 18 and has novelty and non-obviousness over Christopher for at the same reasons that Claim 18 is novel. In like manner, Claim 21 depends on

Claim 20 and has novelty and non-obviousness over Christopher for at the same reasons that Claims 20s novel.

Further, Claim 22 depends on Claims 8, 10, 12, 14, 16, and 18 and is novel for at least the same reasons that these claims are novel.

Finally, Claim 23 depends on Claims 9, 11, 13, 15, 17 and 20 and is novel for at least the same reasons that these claims are novel.

Claims 26 and 47-48

As was described above, Claims 2-5, 7-18, 20, 24 and 25 have novelty and non-obviousness over Christopher. Accordingly, Claim 26, depending on Claims 2-5, 7-18, 20, 24 and 25 also has novelty and non-obviousness over Christopher.

In addition, as was described above, Claims 28-46 have novelty and non-obviousness over Christopher. Accordingly, Claims 47-48 depending on Claims 28-46 also has novelty and non-obviousness over Christopher.

Conclusion

Accordingly, Applicants respectfully request that the Examiner remove the 35 U.S.C. § 102(a) rejections. Applicants and applicants' attorney believe that they have addressed all of the issues raised by the Examiner in the Office Action and have put Claims 2-5, 7-26 and 28-48 in a condition of allowance. Applicants therefore respectfully request that this application be allowed in a timely manner.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 10th day of June, 2005.

Respectfully submitted,



ADRIAN J. LEE
Registration No. 42,785
Attorney for Applicant
Customer No. 022913

AJL:ds
AJL0000000819V001